

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 21, “Compliance,” Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” Iowa Administrative Code.

The purpose of the amendments is to make corrections, clarifications and improvements to existing air quality rules for: air quality definitions, electronic submittal of applications and inventories, temporary operation of small generators during disaster periods, construction permitting provisions, portable plant relocation notifications, Title V definitions and permitting provisions, Acid Rain program provisions, emission standards for hazardous air pollutants, test methods and procedures, and PSD permitting provisions.

Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on June 4, 2008, as **ARC 6826B**. A public hearing was held on July 7, 2008. The Department did not receive any oral or written comments at the public hearing. The Department did not receive any written comments before the public comment period closed on July 8, 2008.

The Department made two changes to the amendments proposed in the Notice. Proposed new subparagraphs 22.105(1)“a”(10) to (12) and the proposed amendment to rule 25.3(455B) have not been adopted. See the summaries for Items 8, 17, 21 and 22 for a discussion of the reasons for the changes.

Item 1 amends rule 567—20.2(455B), the definition of “EPA reference method,” to make this definition consistent with the definition in rule 567—22.100(455B), to reflect federal amendments to EPA reference methods that were adopted by reference into 567—Chapter 25 in previous rule makings, and to adopt updates to test methods that EPA recently finalized.

Items 2 and 3 amend subrules 21.1(3) and 21.1(4) to allow for electronic submittal of emissions inventories. Electronic submittal is provided for under Iowa Code chapter 554D. For the past several years, the Department has given stakeholders the option of submitting emissions inventories electronically using the State Permitting and Air Reporting System (SPARS). Items 1 and 2 codify the option for electronic submittal.

Item 4 adopts new rule 567—21.6(455B) to allow utilities to temporarily operate small generators for electricity generation during periods of natural and man-made disasters. During the winter ice storms that occurred in 2006-2007, when electricity generation was disrupted throughout much of the state, some utilities installed and temporarily operated small generators. Current rules do not allow for operation of a generator without an owner or operator first obtaining an air construction permit or a variance from the Department. In the fall of 2007, the Department began working with stakeholders to devise the best way for expediting use of these generators in the future while still ensuring that air quality standards are met. The new rule is the result of these discussions with stakeholders and specifies the conditions for installing and operating these generators. This rule applies the definition of “disaster,” specified in Iowa Code section 29C.2(1), which reads as follows: “‘Disaster’ means man-made and natural occurrences, such as fire, flood, drought, earthquake, tornado, windstorm, hazardous substance or nuclear power plant accident or incident, which threaten the public peace, health, and safety of the people or which damage and destroy public or private property. The term includes attack, sabotage, or other hostile action from within or without the state.” Additionally, an owner or operator may install and operate a generator under this rule even if the Governor or President does not make an official disaster declaration.

Item 5 amends subrule 22.1(3) to allow for electronic submittal of air construction permit applications. As stated in the explanation for Items 2 and 3 above, electronic submittal is authorized under Iowa Code chapter 554D. The Department has been accepting electronic submittals through SPARS for several years now. This amendment codifies the electronic submittal option.

Item 6 amends paragraph 22.3(3)“f,” which contains the provisions for portable plant relocations. The amendment reduces the notification requirement for portable plant relocations from 30 days prior to relocation to 14 days prior to relocation. This change will allow more flexibility for owners and operators of equipment at portable plants, while still allowing sufficient time for Department field office staff to conduct air quality inspections at these portable plants. Facilities relocating to areas that are classified as nonattainment or areas that are maintenance areas for the ambient air quality standards must still submit their relocation notices 30 days in advance of relocating. This amendment will still provide the Department with sufficient time to conduct the required air quality analysis for facilities relocating to these areas. A list of current nonattainment and maintenance areas is available from the Department, upon request, and also will be available on the Department’s Internet Web site.

Item 7 amends rule 567—22.100(455B), the definition of “EPA reference method,” to reflect federal amendments to EPA reference methods that were adopted by reference into 567—Chapter 25 in previous rule makings and to adopt updates to test methods that EPA recently finalized.

Item 8 amends subrule 22.105(1), which includes the “duty to apply” provisions for the Title V Operating Permit program. This amendment accomplishes two objectives.

First, the amendment includes provisions for electronic submittal of the Title V application forms. The Department has provided for electronic submittal of Title V permit applications through SPARS for several years. Electronic submittal is authorized under Iowa Code chapter 554D.

Second, the amendment clarifies the requirements for submitting different types of Title V applications for both existing and new major stationary sources. The amendment does not add any new requirements, but simply provides a better description for Title V facility owners or operators who must submit timely applications, revisions and notifications.

The subparagraphs included in the Notice referring to application requirements under the Clean Air Interstate Rule (CAIR) are being withdrawn in the adopted rules because the U.S. Court of Appeals for the District of Columbia (D.C. Circuit) recently vacated the federal CAIR program in its entirety.

Item 9 adopts new subrule 22.105(5). The new subrule adds provisions for the Department to allow more than one Title V permit for one stationary source. The amendment codifies Department policy to allow multiple permits under certain circumstances. The Department has issued multiple Title V permits to some single stationary sources. The Department will review requests for multiple Title V permits for a single stationary source and may issue multiple Title V permits, as appropriate.

Item 10 amends paragraph 22.106(3)“b” to provide for electronic submittal of Title V emissions inventories that are submitted to the Linn County or Polk County air quality programs. As with the Department, Linn County and Polk County currently allow electronic submittal of emissions inventories through SPARS.

Item 11 adopts new subrule 22.106(8). Subrule 22.106(8) sets forth the provisions for correcting errors in Title V emissions inventories and Title V fees.

Item 12 amends the catchwords for rule 567—22.110(455B) to add the term “off-permit revision.” The term “off-permit revision” is sometimes used to refer to a change at a Title V source that does not require a revision to the current Title V permit. This amendment will make rule 567—22.110(455B) consistent with the amendment proposed in Item 8.

Item 13 amends subrule 22.116(2) to remove the sentence stating that required testing shall be completed prior to the submission of an application for Title V permit renewal. This statement is no longer needed because the Department’s Title V program has established procedures to address compliance testing. If a required test is not completed prior to Title V permit renewal, the Department has the option of including a compliance plan in the renewed permit that addresses the need to complete testing. It is not practical to delay submittal of a Title V renewal application because testing has not yet been completed.

Items 14 and 15 amend rule 567—22.120(455B), the introductory paragraph and the definitions of “40 CFR Part 72” and “40 CFR Part 75,” to reflect recent EPA amendments to analytical test methods and procedures.

Item 16 amends subrule 22.207(1) to correct the cross reference to subrule 22.105(1) to reflect the amendments in Item 8.

Item 17 amends subrule 23.1(4), the emission standards for hazardous air pollutants for source categories, also known as National Emission Standards for Hazardous Air Pollutants or NESHAP, to adopt recent amendments that EPA made to 40 CFR Part 63. The amendments being adopted are as follows:

- Amendments to the NESHAP for hazardous waste combustors (Subpart EEE, as adopted by reference in paragraph 23.1(4)“be”). This action clarifies several compliance and monitoring provisions and also corrects several omissions and typographical errors in the final federal rule. EPA states that it is finalizing the amendments to facilitate compliance and improve understanding of the rule requirements. The final federal rule does not address issues for which petitioners sought reconsideration, and it does not address issues raised in EPA’s comment solicitation of September 27, 2007.

- Amendments to the NESHAP for iron and steel foundries that are major sources of hazardous air pollutants (HAP) (Subpart EEEEE, as adopted by reference in paragraph 23.1(4)“de”). EPA issued amendments to this standard to add alternative compliance options for cupolas at existing foundries and to clarify several provisions to increase operational flexibility.

- Amendments consisting of technical corrections to the NESHAP for area sources for several source categories, including the NESHAP for acrylic and modacrylic fibers production (Subpart LLLLLL), carbon black production (Subpart MMMMMM), chemical manufacturing of chromium compounds (Subpart NNNNNN), flexible polyurethane foam production and fabrication (Subpart OOOOOO), lead acid battery manufacturing (Subpart PPPPPP), and wood preserving (Subpart QQQQQQ). The amendments clarify certain provisions in two of the final area source rules (flexible polyurethane foam production and fabrication and lead acid battery manufacturing) and correct editorial and publication errors in all of the final rules.

Amendments to the NESHAP for dry cleaners (Subpart M, as adopted by reference in paragraph 23.1(4)“m”), described in the summary of Item 17 in the preamble of the Notice, are not being adopted because EPA subsequently withdrew the amendments described in the Notice.

Additionally, the Department added language to subrule 23.1(4) to state that an earlier date for adoption by reference may apply for a particular subpart of Part 63 if that earlier date is specified in parentheses for the paragraph for which the federal subpart is adopted.

Item 18 amends paragraph 23.1(4)“cz,” which is the NESHAP for stationary reciprocating internal combustion engines (RICE) (Subpart ZZZZ). The amendment specifies that the Department has adopted the federal provisions as amended through April 20, 2006. The amendment is being made because the Department is not adopting the federal amendments that EPA finalized on January 19, 2008. The Department is not adopting the new amendments at this time because the Department is still identifying facilities that may be affected by the federal amendments and is also developing an implementation plan for the new federal provisions. The Department plans to adopt the federal amendments in a rule making later this year.

Item 19 adopts new paragraphs 23.1(4)“dw,” “dy,” and “dz.” This amendment adopts by reference three new NESHAP for area sources. Area sources are those new and existing sources that are not major sources for HAP. The new standards apply to the following source categories: Hospital Ethylene Oxide Sterilizers (Subpart WWWW); Steelmaking Electric Arc Furnaces (Subpart YYYYY); and Iron and Steel Foundries (Subpart ZZZZ).

The Department estimates that 18 hospitals may be affected by the NESHAP requirements for ethylene oxide (EO) sterilizers. Many hospitals no longer sterilize equipment with EO sterilizers. Hospitals that do operate new or existing EO sterilizers will be required to implement management practices for sterilizing full loads (except under medically necessary circumstances). Hospitals which route EO to an air pollution control device are in compliance with the required management practices. It is expected that any hospitals still operating EO sterilizers are already following the required management practices. However, the Department plans to contact the identified hospitals to assist with the applicable NESHAP requirements.

The Department has identified two facilities that may be affected by the NESHAP requirements for steelmaking electric arc furnaces (EAF). These two affected facilities already have Title V permits, as required by the NESHAP. The two EAF facilities must implement and comply with a metal scrap

handling plan by June 30, 2008. Additional NESHAP requirements may apply, such as compliance testing for particulate matter (PM) and opacity, as well as monitoring and record keeping. For purposes of the NESHAP, PM is a surrogate for HAP metals. The Department will be working with the two affected facilities to assist with applicable NESHAP provisions.

The Department estimates that 16 facilities may be affected by the NESHAP requirements for iron and steel foundries. Similar to the EAF NESHAP requirements, affected iron and steel foundries must implement a metal scrap handling plan by June 30, 2008. Affected foundries must also apply pollution prevention management practices, and larger foundries must comply with emission limits for PM (a surrogate for HAP metals). The Department will be working with the affected facilities to assist with applicable NESHAP provisions.

Item 20 adopts new paragraphs 23.1(4)“er,” “es,” and “et.” This amendment adopts by reference three additional new NESHAP for area sources. The new standards apply to the following source categories: Clay Ceramics Manufacturing (Subpart RRRRRR); Glass Manufacturing (Subpart SSSSSS); and Secondary Nonferrous Metals Processing (Subpart TTTTTT).

At this time, the Department has not identified any facilities that appear to be affected by the NESHAP requirements for clay ceramics manufacturing.

The Department has identified one facility that may be affected by the NESHAP requirements for glass manufacturing. This facility already has a Title V permit, as required by the NESHAP. The NESHAP emission limits and testing requirements apply only to specific types of glass manufacturing that use one or more continuous furnaces that produce glass at a rate of at least 50 tons per year and that contain compounds or one or more “glass manufacturing metal HAP,” as defined in Subpart SSSSSS. The Department will work with the glass manufacturing facility to determine what, if any, NESHAP requirements may apply.

The Department has identified three facilities that may be affected by the NESHAP requirements for secondary nonferrous metals processing. This standard applies to all furnace melting operations located at affected facilities. Existing facilities are required to route furnace emissions through a fabric filter or baghouse that achieves a PM control efficiency of at least 99 percent or to meet a specified outlet PM concentration limit. Affected facilities may be subject to other requirements, such as conducting performance testing. The Department will work with the three identified facilities to determine what, if any, NESHAP requirements apply.

Items 21 and 22 amend subrule 25.1(9) and rule 567—25.2(455B), respectively, to adopt by reference amendments and corrections that EPA recently finalized for 40 CFR Part 75. The federal test methods and procedures contained in Part 75 affect the Acid Rain program.

In the summary for Items 21 and 22 in the preamble of the Notice, statements were included concerning adoption of amendments for CAIR and for the Clean Air Mercury Program (CAMR). The Department is not adopting the amendments to Part 75 pertaining to CAIR and CAMR because the D.C. Court vacated both of the federal CAIR and CAMR programs in their entirety. The Department is retaining other amendments adopted in Items 21 and 22, however, because they adopt changes to test methods and procedures for the Acid Rain program. The Acid Rain program remains in effect, and the Department wants to ensure that the most current federal test methods are adopted into the state’s administrative rules.

The Department has not adopted the amendment described in Item 23 of the Notice because the amendment to rule 25.3(455B) concerned only the CAMR program. Subsequent items in the Adopted and Filed rule making are renumbered accordingly.

Item 23 amends subrule 33.3(17) to add a new paragraph “c.” When the Department adopted the federal PSD reform rules last year, EPA requested that the Department include specific rules for public participation because the federal PSD rules do not specify the procedures for public comment on state-issued PSD permits. Therefore, the Department adopted public participation rules similar to those used in the Title V Operating Permit program. This amendment further clarifies the public participation procedures by including provisions for reopening the public comment period when necessary. These provisions will add clarity for those applying for PSD permits and for those seeking to comment on

draft PSD permits. This amendment codifies Department procedures, which have closely followed the federal rules for EPA-issued PSD permits set forth in 40 CFR Part 124.

Item 24 amends subrule 33.3(18), paragraphs “c” and “d.” This amendment adopts the PSD source obligation provisions specified in the federal regulations under 40 CFR 52.21(r) that were inadvertently omitted when the Department adopted EPA’s PSD reform rules in 2006. These provisions had been included in the state’s PSD rules prior to that time. These added provisions make clear that a source owner or operator is subject to enforcement action if a source is not constructed according to its issued PSD permit, and if a source owner or operator does not obtain the required PSD permit prior to initiating construction. The amendment does not change the Department’s existing authority to enforce the PSD permit requirements. The amendment also clarifies the time period allowed for commencing and completing construction on PSD projects.

Item 25 adopts new subrule 33.3(21) to add provisions for administrative amendments to PSD permits. These provisions codify current Department procedures and will add clarity for those applying for administrative amendments to PSD permits.

These amendments are intended to implement Iowa Code section 455B.133 and chapter 554D (electronic submittal provisions).

These amendments will become effective on October 15, 2008.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 20 to 23, 25, 33] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 6826B**, IAB 6/4/08.

[Filed 8/20/08, effective 10/15/08]

[Published 9/10/08]

[For replacement pages for IAC, see IAC Supplement 9/10/08.]